

POVERTY LAW PROJECT

NATIONAL CLEARINGHOUSE FOR LEGAL SERVICES, INC.



John Bouman  
*Project Director*

Daniel Lesser  
Wendy Pollack

Dory Rand  
Margaret Stapleton  
*Attorneys at Law*

VIA FAX (202) 874-6965  
Cynthia L. Johnson, Director  
Cash Management Policy & Planning Division  
Financial Management Service  
U.S. Department of the Treasury  
401 14th Street, SW, Room 420  
Washington, DC 20227

RE: Proposed rule on EFT 99 (31 CFR Part 208)

Dear Ms. Johnson:

I am writing on behalf of the Poverty Law Project of the National Clearinghouse for Legal Services to express our views on the Treasury Department's proposed regulations on EFT 99 (31 CFR Part 208) and the impact they will have on low and moderate income recipients of federal benefits. The Poverty Law Project represents low-income Illinois residents on welfare and housing issues at the local, state and national levels.

We support Treasury's stated goal of using EFT 99 as a way to bring people who currently do not have bank accounts into the financial mainstream. The right kind of relationship with an insured depository institution can allow low and moderate income people to conduct their financial transactions safely and securely, accumulate savings, and establish a credit history that can help them become homeowners or operate small businesses. However, unless it is done correctly, EFT 99 may actually work to the detriment of our constituents. Our specific concerns are set out below.

1. Waivers. There are some people for whom electronic transfer of federal benefits simply will not work, and these people should be able to continue to receive a paper check. Recipients should not be forced to switch to a new system simply because it's more convenient for the government. We support the provisions of the regulation that allow recipients to self-certify their eligibility for waivers, as well as those grounds for waivers that are contained in the proposed rule. However, some additional groups of recipients should also be made eligible for waivers. These include people with mental disabilities or low levels of literacy, and people with language barriers. In addition, anyone for whom direct deposit creates a financial hardship, regardless of whether or not they have a bank account or when they became eligible for federal benefits, should be able to claim a hardship waiver. We urge you to make these changes in the final rule.

2. ETA accounts. Electronic Transfer Accounts (ETAs) will be established by the Treasury Department for recipients who do not have bank accounts. This is the portion of the EFT 99 program with the greatest potential for bringing people who are currently in the "fringe" banking system into the financial mainstream. But this goal will not be achieved unless Treasury's ETA accounts address the barriers that force people out of the mainstream financial system.

Costs must be prohibited or kept to a bare minimum. Further, recipients must not be forced to pay foreign ATM and network fees when accessing their accounts electronically. The accounts must provide the features that enable recipients to conduct their normal financial transactions. People must be able to deposit other funds into the account (including paper checks), and make

EFT  
#146

transfers out of the account by paper (checks or very low cost money orders) as well as by electronic transfer. The points of access must be plentiful, so that the accounts are convenient to use. And people must be able to track activity in their accounts so that they can manage their finances responsibly. Without these features, people will get their benefits electronically, withdraw cash from their accounts, and continue to use fringe bankers to serve their financial needs. The potential benefits of EFT 99 will be squandered.

It is critical that ETA account holders have all the consumer protections that are afforded to others with accounts at insured depository institutions. Further, these accounts must have customer support systems that are easy to access and enable customers to resolve disputes, replace lost cards, and change PIN numbers when necessary.

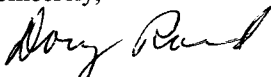
3. Voluntary accounts. We are very disturbed by the partnerships that are beginning to emerge between insured banks and check cashers or other fringe bankers where funds are deposited into the bank but the recipient goes to the check casher to receive a paper check. The recipient pays to have the account, get a paper check, cash the check, and for money orders, electronic transfers and other services. These accounts are a bad deal for the customer, but more importantly, they do not provide the reasonable cost and consumer protections called for in the statute establishing EFT 99. Treasury must use its authority to regulate these accounts and prohibit partnerships between financial institutions with ETA accounts and non-banking entities such as currency exchanges that gouge low-income customers.

4. Public education. As the Treasury Department launches its public education campaign on EFT 99, we urge you to insure that the campaign informs the recipients of federal benefits of all of their options under the program, including the option to claim a waiver, obtain an ETA account, and continue to receive a paper check until ETA accounts become available in two years. Unless the choices are clear, the campaign may do more harm than good, by scaring people into rushing into the kind of predatory voluntary account described above. In its efforts to increase efficiency and lower costs for the federal government, Treasury must not lose sight of its responsibility to serve the interests of those who receive federal benefits.

5. Community Reinvestment Act. The Treasury should consider a financial institution's provision of low-cost bank accounts and ETA access and services for low-income individuals in evaluating financial institutions' compliance with the Community Reinvestment Act.

Thank you for your consideration of these comments.

Sincerely,



Dory Rand